

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SAADI REED,)
)
)
Movant,)
)
)
v.) No. 4:16-CV-856 (CEJ)
)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on the motions of Saadi Reed to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, and to supplement the motion to vacate. Also before the Court is the parties' joint motion for relief.

After pleading guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), movant was sentenced under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), to a 210-month term of imprisonment. His status as an armed career criminal was premised on his three prior Missouri felony convictions for burglary second degree of an inhabitable structure, assault first degree, and armed criminal action. Following the decision of the Supreme Court in *Mathis v. United States*, 136 S.Ct. 2243 (2016), burglary second degree of an inhabitable structure is not a predicate offense that may be used to enhance a sentence under the ACCA. See also *Henderson v. United States*, 2016 WL 4967898 at *6 (W.D. Mo. 2016). Thus, movant does not have the requisite number of predicate felony convictions to qualify him as an armed career criminal. Movant is therefore entitled to relief under *Johnson v. United States*, 135 S.Ct. 2551 (2015). The judgment in the underlying criminal case will be vacated, and movant will be re-sentenced without application of the ACCA.

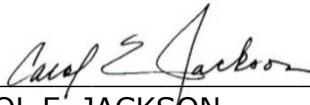
Accordingly,

IT IS HEREBY ORDERED that the motions of Saadi Reed to vacate, set aside, or correct sentence [Doc. # 1] and to supplement the motion to vacate [Doc. # 2] are **granted**.

IT IS FURTHER ORDERED that the joint motion for relief under 28 U.S.C. § 2255 [Doc. # 6] is **granted**.

IT IS FURTHER ORDERED that a copy of this Memorandum and Order shall be filed in the underlying criminal case, United States v. Saadi Reed, No. 4:09-CR-117 (CEJ).

An order vacating the judgment will be entered separately.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of March, 2017.